

## REMARKS

The Office Action mailed May 2, 2001, has been received and the Examiner's comments carefully reviewed. Claims 1, 10, and 17 have been amended. Applicants have included herewith a document entitled, "VERSION WITH MARKINGS TO SHOW CHANGES MADE" to indicate how the claims have been amended. Claims 24-37 have been added. No new subject matter has been added. Claims 1-11, 13-19, 21-37 are currently pending. For at least the following reasons, Applicants respectfully submit that the pending claims are in condition for allowance.

### I. Claims 1-9, 18, 19, 21, and 22

The Examiner rejected claim 1 under 35 U.S.C. §102(e) as being anticipated by *Muchin* (U.S. Patent 5,718,224). Applicants respectfully traverse this rejection, but have amended claim 1 to advance this application to allowance.

Claim 1 has been clarified and now recites a support device having a surface layer with "an apex aligned with said center longitudinal axis." The nasal dilator of *Muchin* does not disclose an apex. Rather *Muchin* discloses configurations wherein the region along the longitudinal axis has substantially straight edges or concave edges. See Figs. 9 and 10. *Muchin* does not teach or suggest the structural limitations of an apex as recited in claim 1. Applicants therefore submit that claim 1 is patentable over *Muchin*.

Claims 2-9, 18, 19, 21, and 22 depend from independent claim 1 and incorporate all the limitations of claim 1. Applicants therefore maintain that each of the rejected dependent claims is patentable over the art of record. In view of the amendment to independent claim 1, further discussion regarding the independent patentability of the dependent claims is believed to be unnecessary.

### II. Claims 10, 11, 13-16, and 23

The Examiner rejected claim 10 under 35 U.S.C. §103(a) as being unpatentable over *Muchin* (U.S. Patent 5,718,224) in view of *Johnson* (U.S. Patent 5,533,499). Applicants respectfully traverse this rejection.

As amended, claim 10 now clarifies that the support device includes a surface layer having a major longitudinal dimension located in a middle region and between reduced longitudinal dimensions. Claim 10 further recites that the reduced longitudinal dimensions are less than the major longitudinal dimension. Neither *Muchin* nor *Johnson* disclose or suggest such a structural limitation. Rather, *Muchin* and *Johnson* disclose devices having dimensions on either side of a major longitudinal dimension that are greater or equal to the major longitudinal dimension. Therefore Applicants submit that claim 10 is patentable.

Further, claim 10 recites specific dimensions of the surface layer. The dimensions reflect a support device sized for "first and second nasal passage[s] of a horse." See claim 10. Neither *Muchin* nor *Johnson* teach or suggest use of a dilator on a horse or other domestic animal. Absent a suggestion to make the devices of *Muchin* or *Johnson* sized for a horse, it would not be obvious to make a dilator having the dimensions as recited in claim 10.

The Examiner further rejected claim 10 under 35 U.S.C. §103(a) as being unpatentable over *Kalt* (U.S. Patent 5,755,232). Applicants respectfully traverse this rejection.

As previously discussed, amended claim 10 now recites a surface layer having a major longitudinal dimension located in a middle region and between reduced longitudinal dimensions, wherein the reduced longitudinal dimensions are less than the major longitudinal dimension. *Kalt* does not disclose or suggest such a structural limitation. Rather, *Kalt* discloses a medical tape base 12 having dimensions on either side of the major longitudinal dimension that are greater or equal to the major longitudinal dimension. Further *Kalt* does not teach or suggest particular dimensions adapted for use with a horse as recited in claim 10. Applicants therefore submit that claim 10 is patentable over *Kalt*.

Claims 11, 13-16, and 23 depend from independent claim 10 and incorporate all the limitations of claim 10. Applicants therefore maintain that each of the rejected dependent claims is patentable over the art of record. Further discussion regarding the independent patentability of the dependent claims is believed to be unnecessary.

### III. Claim 17

The Examiner rejected claim 17 under 35 U.S.C. §102(b) as being anticipated by *Sawyer* (U.S. Patent 1,292,083). Applicants respectfully traverse this rejection, but have amended claim 17 to advance this application to allowance. Claim 17 is an independent claim.

As amended, claim 17 now recites a bridge piece "comprising a strip". The strip includes lateral regions for attaching and detaching to side pieces at a plurality of spaced-apart detachable contact locations. In contrast, *Sawyer* discloses a spring member 7 connected to pads 6 by means of hooked or bent ends 8. The hooked or bent ends 8 connect to the pads 6 at a hook point. *Sawyer* discloses one connection point between the end 8 and the pad 6, not a region that attaches "at a plurality of spaced-apart detachable contact locations". Applicants therefore submit that *Sawyer* does not anticipate the invention recited in claim 17.

The Examiner further rejected claim 17 under 35 U.S.C. §103(a) as being unpatentable over *Mitra et. al* (U.S. Patent 5,890,486) in view of *Sawyer* (U.S. Patent 1,292,083). Applicants respectfully traverse this rejection.

*Mitra et. al* fails to disclose a detachable bridge piece. The Examiner relies on *Sawyer* to make up for the *Mitra et. al* deficiency. Applicants respectfully submit that a basis to establish an obviousness rejection is lacking where there is no teaching or suggestion in either references to combine *Mitra et. al* with *Sawyer*. Even if combined, the combination does not disclose a detachable bridge piece having lateral regions that attach at a plurality of locations. Applicants therefore submit that claim 17 is patentable.

### IV. New claims 24-37

Lastly, independent claim 24 includes a protrusion at the center longitudinal axis. Claims 25-28 depend from claims 24. Independent claim 29 includes a centering structure at the center longitudinal axis. Claims 30-33 depend from claim 29. Independent claim 34 includes a means for centering the center longitudinal axis. Claims 35 and 36 depend from claim 34. Independent claim 37 includes an apex at the center longitudinal axis. Applicant submits that newly added claims 24-37 are allowable and respectfully request notification to that effect.

### SUMMARY

It is respectfully submitted that each of the presently pending claims (claims 1-11, 13-19, and 21-37) are in condition for allowance and notification to that effect is requested. The Examiner is invited to contact Applicants' representative at the below-listed telephone number if it is believed that prosecution of this application may be assisted thereby.

Although certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentably distinct. The Applicant reserves the right to raise these arguments in the future.



Dated: \_\_\_\_\_

07/2/01

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, MN 55402-0903  
612.332.5300

Signed: \_\_\_\_\_

Name: David G. Schmaltz  
Reg. No.: 39,828  
DGS/amj

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	BLACH ET AL.	Examiner:	G. DAWSON
Serial No.:	09/264,464	Group Art Unit:	3761
Filed:	MARCH 8, 1999	Docket No.:	12460.1USI2
Title:	NASAL SUPPORT DEVICE FOR DOMESTIC MAMMALS AND METHOD		

---

VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. (Four times amended) A support device for supporting tissues overlying a first and second nasal passage of an animal, the support device comprising:
- an adhesive layer for securing the support device to the tissues;
  - a support layer; and
  - a surface layer, the surface layer configured to include:
    - a center transverse dimension having a center transverse axis therethrough;
    - a first and second lateral transverse dimension on opposing sides of said center transverse dimension;
    - said center transverse dimension greater than all other transverse dimensions of said support device;
    - a center longitudinal dimension having a center longitudinal axis therethrough which is orthogonal to said center transverse axis and bisects said center transverse dimension;
    - a first and second lateral longitudinal dimension on opposing sides of said center longitudinal dimension,
    - said center transverse dimension greater than said first and second lateral transverse dimension;
    - said center longitudinal dimension greater than said first and second lateral longitudinal dimensions;
    - said surface layer including an apex aligned with said center longitudinal axis;
    - said surface layer on opposing sides of said center transverse axis being mirror images of one another.

RECEIVED  
 AUG - 8 2001  
 TCB3700 MAIL ROOM

10. (Four times amended) A support device sized and configured for supporting tissues overlying a first and second nasal passage of a horse, the support device comprising:

a support layer; and

a surface layer, the surface layer configured to include:

a first axis which bisects said surface layer along a [first] transverse dimension;

a second axis which bisects said surface layer along a [second] longitudinal dimension;

a middle region located proximate said second axis having a major longitudinal dimension, said major longitudinal dimension being located between reduced longitudinal dimensions;

said surface layer being bilaterally symmetrical across both of said first and second axes;

said [first] transverse dimension of said surface layer along said first axis being 10-17 cm;

said [second] major longitudinal dimension of said surface layer along said second axis being 5-18 cm;

said reduced longitudinal dimensions being less than said major longitudinal dimension.

17. (Three times amended) A support device for supporting tissues overlying a first and second nasal passage of a horse, said device comprising;

a first side piece for applying over said first nasal passage;

a second side piece for applying over said second nasal passage; and

a bridge piece comprising a strip, the strip including [having] a first lateral region and a second lateral region for attaching and detaching said first lateral region to said first side piece

and said second lateral region to said second side piece, the first lateral region engaging the first side piece at a plurality of spaced-apart first detachable contact locations, and the second lateral region engaging the second side piece at a plurality of spaced-apart second detachable contact locations [with a selected amount of tension, said bridge piece being non-elastic].

New claims 24-37 have been added.